

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Harris et al.

Application No. 10/502,431

Filed: July 22, 2004

Confirmation No. 3960

For: NEW TUMOR SUPPRESSOR GENE,
P28ING5

Examiner: Gary B. Nickol

Art Unit: 1642

Attorney Reference No. 4239-64141-02

FILED VIA ELECTRONIC FILING SYSTEM
UNITED STATES PATENT AND TRADEMARK OFFICE

DECLARATION UNDER 37 C.F.R. §1.131

We, Curtis C. Harris, M.D, Makoto Nagashima, M.D., Ph.D., and Masayuki Shiseki, M.D., Ph.D. hereby declare as follows:

1. We are named as co-inventors of U.S. Patent Application No. 10/502,431, filed on July 22, 2004, which is the §371 U.S. National Stage of International Application No. PCT/US03/02174, filed on January 23, 2003, and which claims the benefit of U.S. Provisional Application No. 60/351,504, filed January 23, 2002. The Government of the United States of America as represented by the Secretary of the Department of Health and Human Services is the assignee of U.S. Application No. 10/502,431 (hereinafter the '431 application).

2. It is our understanding that pending claim 1 of the '431 application has been rejected by the U.S. Patent and Trademark Office for allegedly lacking novelty in view of the disclosure in U.S. Patent Publication No. 2006/0127894 (Azimzai *et al.*; hereinafter the '894 application). The '894 application is the §371 U.S. National Stage of International Application No. PCT/US02/25465, filed on August 8, 2002, which claims the benefit of U.S. Provisional Application No. 60/317,913, filed September 7, 2001.

3. As the named co-inventors of the subject matter described in claim 1, this declaration is presented to demonstrate that the subject matter of claim 1 (a purified p28ING5 tumor suppressor protein having a sequence comprising amino acid residues 1-13 and 227-240 of SEQ ID NO: 2) was obtained by us prior to September 7, 2001.

4. Prior to September 7, 2001, a human polypeptide corresponding to a sequence comprising amino acid residues 1-13 and 227-240 of SEQ ID NO: 2 was isolated and the amino acid sequence of this polypeptide was determined. Attached as Exhibit A is a copy of a GenBank record noting that a deposit of a purified p28ING5 tumor suppressor protein having a sequence comprising amino acid residues 1-13 and 227-240 of SEQ ID NO: 2 was made by us on September 23, 1999.

5. All statements made herein and of our own knowledge are true and all statements made on information are believed to be true; and further, these statements were made with the knowledge that willful false statements and like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

Date

4/12/07

Curtis C. Harris, M.D.

Date

Makoto Nagashima, M.D., Ph.D.

Date

Masayuki Shiseki, M.D., Ph.D.

AC/TMH:grb 04/10/07 678704 E-390-2001/0-US-03
PATENT

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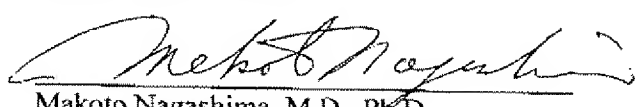
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Date _____

Curtis C. Harris, M.D

Date 4/11/2007



Makoto Nagashima, M.D., Ph.D.

Date _____

Masayuki Shiseki, M.D., Ph.D.

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Curtis C. Harris, M.D

Date _____

Makoto Nagashima, M.D., Ph.D.

Date 04/14/07

Masayuki Shiseki
Masayuki Shiseki, M.D., Ph.D.

NCBI    My NCBI
PubMed Nucleotide Protein Genebook Structure PMC Taxonomy OMIM Books
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☐ 1: AAL68979. Reports p28 ING5 [Homo sa...[gi:18418643]

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DEFINITION p28 ING5 [Homo sapiens].
ACCESSION AAL68979
VERSION AAL68979.1 GI:18418643
DBSOURCE accession AF189286.1
KEYWORDS .
SOURCE Homo sapiens (human)
ORGANISM Homo sapiens
Eukaryota; Metazoa; Chordata; Craniata; Vertebrata; Euteleostomi;
Mammalia; Eutheria; Euarchontoglires; Primates; Haplorrhini;
Catarrhini; Hominidae; Homo.
REFERENCE 1 (residues 1 to 240)
AUTHORS Nagashima, M., Shiseki, M. and Harris, C.C.
TITLE Direct Submission
JOURNAL Submitted (23-SEP-1999) Laboratory of Human Carcinogenesis,
National Cancer Institute, National Institutes of Health, 37
Convent Drive, Building 37, Room 2C26, Bethesda, MD 20892, USA
COMMENT Method: conceptual translation supplied by author.
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EXHIBIT A